

# **Exhibit 2**

**Gehman, Lisa Bollinger**

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**From:** Rhett O. Millsaps II <rhett@lex-lumina.com>  
**Sent:** Wednesday, July 27, 2022 1:28 PM  
**To:** Warshavsky, Oren J.  
**Cc:** Gehman, Lisa Bollinger; Ferguson, Gerald; Wilcox, Deborah; Wallace, Kevin M.; Rebecca Tushnet; Mark McKenna; Christopher J. Sprigman  
**Subject:** Re: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

Oren – Thanks for this. I'm hopeful that we'll be able to produce everything by tomorrow, but it might push into Friday. We'll send things as we get them from the vendor. I do want to reiterate that the productions we already sent are in compliance with the ESI order. We're sending the data that we can in a different, more user-friendly format because our vendor has advised that it can do so without significant burden. They have it in the queue and are processing it as quickly as they can.

Regarding the expert report deadline, we can agree to move that to August 5 if we move the rebuttal report deadline to September 2. That gives us three weeks for expert depositions under the Scheduling Order. Please let us know if this is agreeable.

Please let me know as soon as you can when you confirm a date and time for Mr. Lee's deposition.

Thanks and see you next week.

Rhett

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**From:** "Warshavsky, Oren J." <owarshavsky@bakerlaw.com>  
**Date:** Tuesday, July 26, 2022 at 7:55 PM  
**To:** "Rhett O. Millsaps II" <rhett@lex-lumina.com>  
**Cc:** "Gehman, Lisa Bollinger" <lgehman@bakerlaw.com>, "Ferguson, Gerald" <gferguson@bakerlaw.com>, "Wilcox, Deborah" <DWilcox@bakerlaw.com>, "Wallace, Kevin M." <kwallace@bakerlaw.com>, Rebecca Tushnet <rtushnet@lex-lumina.com>, Mark McKenna <mark@lex-lumina.com>, "Christopher J. Sprigman" <chris@lex-lumina.com>  
**Subject:** RE: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

[Rhett,](#)

My apologies. I realize in item 4 I wrote *next* Thursday. I understand that the large production will be *this* Thursday (July 28).

Best wishes,

Oren

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**From:** Warshavsky, Oren J.

**Sent:** Tuesday, July 26, 2022 10:52 PM

**To:** 'Rhett O. Millsaps II' <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)>

**Cc:** Gehman, Lisa Bollinger <[lgehman@bakerlaw.com](mailto:lgehman@bakerlaw.com)>; Ferguson, Gerald <[gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com)>; Wilcox, Deborah <[DWilcox@bakerlaw.com](mailto:DWilcox@bakerlaw.com)>; Wallace, Kevin M. <[kwallace@bakerlaw.com](mailto:kwallace@bakerlaw.com)>; 'Rebecca Tushnet' <[rtushnet@lex-lumina.com](mailto:rtushnet@lex-lumina.com)>; 'Mark McKenna' <[mark@lex-lumina.com](mailto:mark@lex-lumina.com)>; 'Christopher J. Sprigman' <[chris@lex-lumina.com](mailto:chris@lex-lumina.com)>

**Subject:** RE: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

Dear Rhett,

Thanks again for calling.

Confirming our discussion (and as stated, please let me know if I misstate anything):

1. Mr. Rothschild's deposition will occur next Thursday (August 4);
2. Mr. Lee's deposition is likely to be held next Tuesday or Wednesday;
3. Your vendor expects to be able to cure at least some of the issues in a new production on Thursday; and
4. The large production referenced in your prior email will be made next Thursday.

One related issue that we did not discuss was the expert reports. Can we agree that those will be moved to Friday, August 5?

Thanks,

Oren

**Oren Warshavsky**

He | Him | His  
Partner

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**From:** Warshavsky, Oren J.

**Sent:** Tuesday, July 26, 2022 9:47 PM

**To:** Rhett O. Millsaps II <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)>

**Cc:** Gehman, Lisa Bollinger <[lgehman@bakerlaw.com](mailto:lgehman@bakerlaw.com)>; Ferguson, Gerald <[gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com)>; Wilcox, Deborah <[DWilcox@bakerlaw.com](mailto:DWilcox@bakerlaw.com)>; Wallace, Kevin M. <[kwallace@bakerlaw.com](mailto:kwallace@bakerlaw.com)>; Rebecca Tushnet <[rtushnet@lex-lumina.com](mailto:rtushnet@lex-lumina.com)>; Mark McKenna <[mark@lex-lumina.com](mailto:mark@lex-lumina.com)>; Christopher J. Sprigman <[chris@lex-lumina.com](mailto:chris@lex-lumina.com)>  
**Subject:** RE: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

Dear Rhett,

I realize you may be busy, but per my voicemail of 3:45 PM today, we really need a response from you on the below.

If we had a more protracted schedule, this would not be an issue. But Judge Rakoff maintains a tight schedule and expects us to work within the parameters he has provided.

Baker attorneys and Hermès's in-house counsel plan to travel to Los Angeles beginning tomorrow (I am first, leaving mid-day) and have blocked out the time this week. Likewise, we have a court reporter and videographer engaged.

Hermès's aim is to work with Mr. Rothschild within the tight time frame we both face. That was the aim of my response to you this morning. Given the circumstances described in your email last night and the deadlines, your silence today is making the situation more difficult (though unintentionally so, I am sure).

If we don't hear from you by first thing tomorrow morning, the deposition will have to go forward as planned on Friday. We simply don't see another option.

Should the deposition go forward, Mr. Rothschild's objection to continuing the deposition to accommodate further discovery is noted, but unpersuasive and rejected. From Hermès's perspective, it ignores the plain language of 30(d)(1) and the circumstances here. Likewise, even if an application must be made, Hermès believes it beyond cavil that Judge Rakoff would grant the request. Mr. Rothschild wanted the deposition in Los Angeles, as was his right, but which creates the logistical issue we have here. Mr. Rothschild's first document production has documents that have errors rendering them unreadable, and we still have no solution. Based on last night's email, Mr. Rothschild is making a much larger document production less than 48 hours prior to his deposition. And Mr. Rothschild is not responding to Hermès's offer to reschedule the deposition to next week. In short, Mr. Rothschild is not leaving Hermès with a viable path to an accord.

The foregoing is not meant to be provocative or contentious, though I acknowledge it reads that way. It is meant to ensure that there is no misunderstanding about Hermès's position: it will seek to continue the deposition if it deems doing so is warranted. So please make no mistake, our goal is to reach an accord.

As stated in my email and voicemail, I am happy to discuss. I am happy to do so even tonight.

We look forward to hearing from you.

Thanks,

Oren

**Oren Warshavsky**  
He | Him | His  
Partner

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**From:** Warshavsky, Oren J.  
**Sent:** Tuesday, July 26, 2022 11:40 AM  
**To:** Rhett O. Millsaps II <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)>  
**Cc:** Gehman, Lisa Bollinger <[lgehman@bakerlaw.com](mailto:lgehman@bakerlaw.com)>; Ferguson, Gerald <[gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com)>; Wilcox, Deborah <[DWilcox@bakerlaw.com](mailto:DWilcox@bakerlaw.com)>; Wallace, Kevin M. <[kwallace@bakerlaw.com](mailto:kwallace@bakerlaw.com)>; Rebecca Tushnet <[rtushnet@lex-lumina.com](mailto:rtushnet@lex-lumina.com)>; Mark McKenna <[mark@lex-lumina.com](mailto:mark@lex-lumina.com)>; Christopher J. Sprigman <[chris@lex-lumina.com](mailto:chris@lex-lumina.com)>  
**Subject:** Re: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

Dear Rhett,

Thank you for the quick response.

Concerning the documents: have you been able to review the documents we cannot? If so, can you advise what tool you used to review those documents and how they were viewed (i.e. did you view the documents in the same manner that it was produced, or did you review prior to sending to vendor?). I think a call with your vendor and someone from our lit support team could be helpful to sort this out, though, so please coordinate that with Lisa.

Concerning the deposition: we are considering rescheduling Mr. Rothschild's deposition, but we are up against tight deadlines, and Judge Rakoff is not usually open to extensions, so let's first see if rescheduling is possible. Can you please confirm the categories of documents that will be in this forthcoming substantial production? You previously indicated you were aiming for a Wednesday production, is that still the case? If not, can you confirm the new target date for production? Separately, what is Mr. Rothschild's availability next week? As indicated, Mr. Rothschild's testimony could have an impact on the expert reports, so we would have to push out those deadlines again as well.

Let us know if it's easier to discuss any of the above.

Best wishes,

Oren

**Oren Warshavsky**  
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On Jul 25, 2022, at 11:47 PM, Rhett O. Millsaps II <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)> wrote:

Dear Lisa,

Thank you for your email. We are happy to go forward with Mr. Rothschild's deposition on Friday, but I wanted to let you know where things stand with our document production in case you wanted to postpone the deposition until next week to have adequate time to review the documents. Mr. Rothschild obviously does not have the resources of Hermès, and our firm does not have in-house document production capabilities, so we are working as fast as we reasonably can to produce a substantial volume of additional documents. We will produce those in the next few days, and I can't imagine that your office will have time to review all of them before Mr. Rothschild's deposition on Friday. It of course is your prerogative to go forward with the date we've agreed on, but note that we will object to producing Mr. Rothschild again on another day if Hermès complains that it did not have an adequate opportunity to review his document productions before his deposition.

Regarding Mr. Rothschild's first production, that is the complete data set for the *MetaBirkins* Twitter and Instagram accounts as it was exported from those platforms. I am not aware of any other way to produce it on our end, and I believe that the manner in which it's been produced satisfies Mr. Rothschild's discovery obligations under our agreed upon ESI Protocol. If your team knows how to produce this kind of data in a "logical manner" that isn't unduly burdensome, however, then we will arrange a call between our vendor and someone on your technical team to see if it's feasible for us to produce it in another manner.

Thanks,  
Rhett

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**From:** "Gehman, Lisa Bollinger" <[lgehman@bakerlaw.com](mailto:lgehman@bakerlaw.com)>

**Date:** Monday, July 25, 2022 at 8:06 PM

**To:** "Rhett O. Millsaps II" <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)>, "Warshavsky, Oren J." <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>, "Ferguson, Gerald" <[gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com)>, "Wilcox, Deborah" <[DWilcox@bakerlaw.com](mailto:DWilcox@bakerlaw.com)>, "Wallace, Kevin M." <[kwallace@bakerlaw.com](mailto:kwallace@bakerlaw.com)>

**Cc:** Rebecca Tushnet <[rtushnet@lex-lumina.com](mailto:rtushnet@lex-lumina.com)>, Mark McKenna <[mark@lex-lumina.com](mailto:mark@lex-lumina.com)>, "Christopher J. Sprigman" <[chris@lex-lumina.com](mailto:chris@lex-lumina.com)>

**Subject:** RE: Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production


Dear Rhett,

First, I wanted to confirm that we are planning on keeping Mr. Rothschild's deposition as scheduled for this Friday.

Second, we are experiencing issues with this first production. We spent a significant amount of time trying to make sense of it, and we think that the production is a compilation of various files processed from one or more Metabirkins social media accounts, or potentially just a compilation of the @Metabirkins Twitter account archive (Account ID 1457432485411782658), but the manner in which the account(s) was pulled and/or produced is rendering it illogical on our end.

Apologies for the technical detail, but for example, the first 220 documents are listed with an EML extension although they do not seem to be emails, but conversations or chats. While some of these files and filetypes can be viewed in a stand-alone fashion, the production in its current state is inadequate because the identity of the communicators is missing from the EML files. These show the digital account ID or phone number instead of a name or entity (see below). In other words, we don't know who is sending or receiving the messages.

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 **Sent:** 12/5/2021 1:27:05 AM  
**To:** 1457432485411782658 <>, 1456319960356110344 <>  
**Subject:** 1456319960356110344-1457432485411782658 - 2021/12/05

The remaining 5,000+ production files (html, js, svg, etc.) seem to be the various files that would build a readable Twitter (or other social media) account(s), but as produced we have no way to know which images belong to which communication, posts, or comment. Additionally, the JS and SVG files are text-based XML or text code formatting to build web pages or graphics. While the SVG file may be convertible to a graphic format, we wouldn't know which post or comment that it belonged to. In other words, sending us the graphics for these files would not resolve the issue.

Can you please confirm if our understanding is correct, i.e. that this was to be a production of Mr. Rothschild's @Metabirkins Twitter account? We also ask that you reproduce this production in a logical manner so we can meaningfully review it on our end. If you have any questions or would like to discuss, please let me know.

Best,  
Lisa

**Lisa Bollinger Gehman**  
Associate

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**From:** Rhett O. Millsaps II <[rhett@lex-lumina.com](mailto:rhett@lex-lumina.com)>  
**Sent:** Friday, July 22, 2022 5:29 PM  
**To:** Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Ferguson, Gerald <[gferguson@bakerlaw.com](mailto:gferguson@bakerlaw.com)>; Wilcox, Deborah <[DWilcox@bakerlaw.com](mailto:DWilcox@bakerlaw.com)>; Wallace, Kevin M. <[kwallace@bakerlaw.com](mailto:kwallace@bakerlaw.com)>; Gehman, Lisa Bollinger <[lgehman@bakerlaw.com](mailto:lgehman@bakerlaw.com)>  
**Cc:** Rebecca Tushnet <[rtushnet@lex-lumina.com](mailto:rtushnet@lex-lumina.com)>; Mark McKenna <[mark@lex-lumina.com](mailto:mark@lex-lumina.com)>; Christopher J. Sprigman <[chris@lex-lumina.com](mailto:chris@lex-lumina.com)>  
**Subject:** Hermès International et al. v. Rothschild (22-cv-00384); Rothschild First Production

[External Email: Use caution when clicking on links or opening attachments.]

Dear Oren,

Please find below a link to download the following production by Mr. Rothschild:

Volume	BegBates	EndBates	Docs	Pages
Rothschild001	Rothschild000001	Rothschild007155	5388	7155

Here is the link that can be used to download the volume:

<https://ftpus.consilio.com/public/file/xQgdWUBFjEaRaBZ6-rB1uA/Rothschild001.zip>

We'll send the passwords for accessing the link, and for extracting the zip, in a separate e-mail.

This production contains documents that are labeled "Confidential," pursuant to the Proposed Protective Order and Stipulated Protocol and [Proposed] Order Governing The Discovery of Electronically Stored Information ("Protective Order & ESI Protocol") in this action. By producing the enclosed documents, Mr. Rothschild does not intend to waive the attorney-client privilege, the work-product doctrine, or other applicable privileges. If any such protected or non-responsive materials have been produced, we reserve the right to their return in accordance with Fed. R. Evid. 502(d), consistent with and pursuant to the Protective Order & ESI Protocol in this action.



We are preparing another substantial production for next week, which likely will be a larger volume than this one and might not be ready to send until as late as Wednesday depending on our vendor's turnaround (though we are aiming for sooner). In light of this, please let us know if you would prefer to push Mr. Rothschild's deposition back a bit to allow for more time for you to review the documents.

Have a good weekend.

Thanks,  
Rhett

Rhett O. Millsaps II

Managing Member

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